

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

IN RE: §
§
BRADLEY C. SMITH § CASE NO. 21-90242
SSN: XXX-XX-9750 § CHAPTER 13
Debtor §

OBJECTION OF LLOYD GILLESPIE TO DEBTOR'S AMENDED PLAN
FILED FEBRUARY 3, 2022

Lloyd Gillespie is a secured creditor of Debtor and files an objection to Debtor's amended plan filed February 3, 2022 as follows:

1. Lloyd Gillespie is a secured creditor with respect to 58.90 acres in the Jose Flores Survey, Nacogdoches County, Texas ("the Property").
2. Debtor, along with his wife, Kristy B. Smith, purchased the Property on February 15, 2013 and Lloyd Gillespie loaned Debtor and his wife the purchase money of \$200,000.00. Lloyd Gillespie's loan was secured by a Vendor's Lien and Deed of Trust lien on the Property. A copy of the Promissory Note, Deed, and Deed of Trust with recording information are attached as Exhibit A. Lloyd Gillespie is the holder of this debt which is a first lien on the Property.
3. The Promissory Note matured by its terms on February 15, 2018. Due to default in payment of the Promissory Note, Lloyd Gillespie instituted foreclosure proceedings pursuant to the Deed of Trust, and the foreclosure sale was set for January 4, 2022. A copy of the Notice of Trustee's Sale is attached as Exhibit B. Debtor's filing of this bankruptcy case on December 30, 2021 stayed the foreclosure sale.
4. At the time of filing the bankruptcy petition, the unpaid balance due on the Promissory Note was \$306,765.13. The payment terms at that time was the total unpaid balance was due and payable as the Promissory Note had matured on February 15, 2018, and it was not monthly payments. Lloyd Gillespie filed a Proof of Claim on March 10, 2022.

5. Schedule D of Debtor's schedules No. 2.8 states the unpaid balance on the Promissory Note is \$281,000.00, which is not correct, and No. 2.9 states that the arrearage is \$83,000.00. Since the Promissory Note matured on February 15, 2018, the arrearage is the entire unpaid balance due on the Promissory Note, which is \$306,765.13.

6. Debtor's First Amended Plan should not be confirmed because:

a. The plan does not comply with 11 USC 1325(1) in that the treatment of Lloyd Gillespie's claim is not in compliance with the correct figures of the Lloyd Gillespie Proof of Claim.

b. The plan provides for payment by direct payments of \$1,750.00 per month as that does not comply with the contractual obligations of the Promissory Note, and which would extend the maturity of the Promissory Note for not less than 20 years, which does not comply with 11 USC 1325(a)(5).

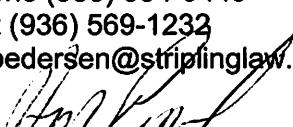
c. The plan provides for payment of arrearage of \$83,000.00 when the correct figure is \$306,765.13.

d. Debtor has failed to make the direct payments to Lloyd Gillespie of \$1,750.00 per month for the months of February 2022 and March 2022, which were due before the 15th day of the month.

7. Lloyd Gillespie requests further relief to which he may be entitled.

Respectfully submitted,

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By 
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Attorney for Lloyd Gillespie

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing instrument was mailed by United States mail, postage prepaid, and/or by electronic means, to:

Debtor:

Bradley C. Smith
12526 N. FM 95
Nacogdoches, Texas 75961

Attorney for Debtor:

Walter David Stephens
PO Box 444
103 E. Denman Ave.
Lufkin, Texas 75902-0444

Trustee:

Lloyd Kraus, Chapter 13 Trustee
Plaza Tower
110 N. College Ave., 12th Floor
Tyler, Texas 75702

Parties Requesting Notice:

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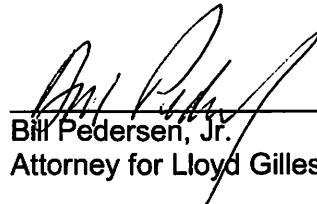
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Signed this 16 day of March, 2022.



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